IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.W.P. No.205 of 2007

Date of Decision: 15.3.2007

By Post.

Santosh Versus State of Haryana.

CORAM : Hon'ble Mr. Justice S.S.Saron.

Present:- Mr. Vikas Chaudhari, AAG Haryana.

S.S.SARON, J.(ORAL)

The letter received from Smt. Santosh was treated as Criminal Writ Petition.

Notice of motion was issued to Advocate General Haryana, who has filed reply by way of affidavit of SI Randhir Singh, CIA Police Lines Sector 30, Faridabad.

The petitioner alleged that her only son namely Hony Kumar had been whisked away by the CIA staff Police Lines Sector 30, Faridabad, on 18.2.2007 at 5:00 p.m. Since then, she had been visiting the police department who did not give her any information. It is alleged that her son had not indulged in any offence till date and that he was a minor.

In reply that has been filed by State, it is submitted that on the complaint of one Bane Singh s/o P.R.Yadav, case FIR No.28, dated 22.1.2007 was registered at Police Station Sarai Khawaja, Faridabad for the offence under Section 395 IPC. The complainant while he was going in his Innova vehicle was intercepted by five persons who had deadly weapons. They caused injuries to him and snatched his vehicle. From the custody of the driver a mobile phone of motrola make was also snatched besides some cash.

During investigation in the said case it was found that the mobile number was being misused by Hony Kumar son of the petitioner. Accordingly a raid was conducted in the area of Old Railway road Faridabad on 27.2.2007 at 8:00 a.m. On seeing the police vehicle four or five persons inside the INDICA car tried to run away. One of the person was nabbed. During investigation Hony Kumar made a disclosure statement. It was disclosed that on the intervening night of 17.1.2007 he alongwith co-accused had snatched an INDICA white colour car in the area of IFFICO Chowk Gurgaon. On the basis of the disclosure statement of Hony, the motrola mobile phone was also recovered from his custody. Accordingly, Hony Kumar was arrested in the aforesaid case FIR No.28 dated 27.1.2007.

Information of arrest of Hony Kumar, it is stated, was given to the petitioner on her mobile on the same day at 11/11:30 a.m. The Inspector CIA Faridabad also sent information on 27.2.2007 of the arrest of Hony Kumar to Superintendent of Police, Faridabad with copy to Incharge Control Room, Faridabad. The accused Hony Kumar was produced before the learned Illaqa Magistrate, who remanded him to judicial custody till 12.3.2007.

After giving my thoughtful consideration to the matter it is evident that the arrest of Hony Kumar has been made in case FIR No.28 dated 27.1.2007 registered at P.S.Sarai Khawaja. The allegation that the son of the petitioner was whisked away on 18.2.2007 has been denied in the reply that has been filed. This Court in exercise of its writ jurisdiction is not to embark upon an inquiry into the veracity of facts and go into the question whether the allegations as made would be substantiated or not. In any case

in habeas corpus proceedings, the legality of the detention is to be seen at the time of hearing. The son of the petitioner was arrested on 27.2.2007 and thereafter was remanded to judicial custody. As such, even if the earlier detention of the son of the petitioner was invalid, the same being valid as on date a writ of habeas corpus is not to be issued, therefore, there is no merit in the present petition.

Consequently, the criminal writ petition is dismissed.

(S.S.SARON)
JUDGE

March 15,2007
Reema